

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

|                      |   |                         |
|----------------------|---|-------------------------|
| LESLIE PAUL HOWARTH, | : |                         |
| Plaintiff            | : |                         |
| v.                   | : | Civil Action No. 05-27J |
| SHEETZ,              | : |                         |
| Defendant            | : |                         |

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on July 25, 2005, docket no. 17, recommending that the defendant's motion to dismiss, docket no. 12, be granted in part, and the complaint dismissed without prejudice to raising the ADA Title III denial of service claim at the overlapping complaint filed at Howarth v. Sheetz, C.A. No. 05-22J.

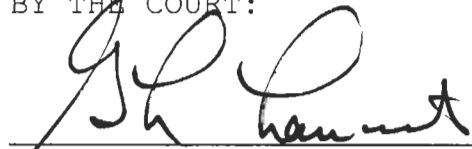
The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. No objections have been filed, and the time to do so has expired.

After review of the record of this matter together with the Report and Recommendation, and noting the lack of timely objections thereto, the following order is entered:

20<sup>th</sup>  
AND NOW, this \_\_\_\_\_ day of August, 2005, it is

ORDERED that the defendant's motion to dismiss is granted in part, and the denial of service claim is dismissed without prejudice to raising the same claim at Howarth v. Sheetz, C.A. No. 05-22J. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:



GARY L. LANCASTER,  
UNITED STATES DISTRICT JUDGE

cc:

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